

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 AVETIS ARCHANIAN,

4 Petitioner,

5 v.

6 WILLIAM GITTERE, et al.,

7 Respondents.

Case No.: 3:19-cv-00177-APG-CBC

**ORDER GRANTING MOTION FOR
EXTENSION OF TIME**

(ECF No. 12)

8 In this capital habeas corpus action, petitioner Avetis Archanian is represented by
9 appointed counsel. Archanian is scheduled to file an amended habeas petition by July 22, 2019.
10 *See* ECF No. 11 (90 days for amended petition (July 21 is a Sunday)). On May 20, 2019,
11 Archanian moved for an 87-day extension of that deadline, to October 17, 2019. ECF No. 12.
12 Archanian contends the extension is necessary because of the complexity of this action and the
13 work necessary to prepare the amended petition. Archanian’s motion for extension of time is
14 made in good faith and not solely for the purpose of delay, and there is good cause for the
15 extension of time requested. I will grant the motion.

16 In the motion for extension of time, Archanian requests a ruling “[t]hat from June 19,
17 2018 through July 6, 2018, both dates inclusive, Petitioner had a properly filed state post-
18 conviction petition pending in the Nevada Supreme Court.” ECF No. 12 at 5. Archanian
19 requests this finding because it affects the application of the statute of limitations with respect to
20 his amended petition under 28 U.S.C. § 2244(d). These dates are significant because, according
21 to Archanian, on the appeal in his first state habeas action, the Supreme Court of Nevada
22 inadvertently issued a remittitur on June 19, 2018 and then recalled that remittitur on July 6,
23 2018. *Id.* at 2. Archanian’s counsel state that they have been unable to locate any authority

1 regarding the operation of the statute of limitations under such circumstances. *Id.* at 3. The
2 further state that they conferred with the respondents' counsel and "Respondent agrees that the
3 post-conviction action in [the] Nevada Supreme Court [c]ase remained pending until the Nevada
4 Supreme Court issued its final remittitur on October 18, 2018." *Id.* The respondents did not
5 respond to Archanian's motion. I will treat this as a stipulation of the parties, which I will
6 approve, and make the factual finding requested by Archanian.

7 IT IS THEREFORE ORDERED that the petitioner's Motion for Extension of Time (**ECF**
8 **No. 12**) is **GRANTED**. The petitioner will have until October 17, 2019 to file an amended
9 petition for writ of habeas corpus.

10 IT IS FURTHER ORDERED that, in all other respects, the schedule for further
11 proceedings set forth in the April 22, 2019 order (ECF No. 11) remains in effect.

12 IT IS FURTHER ORDERED that it will be considered established in this case that from
13 June 19, 2018 through July 6, 2018, both dates inclusive, the petitioner had a properly filed state
14 post-conviction petition pending at the Supreme Court of Nevada.

15 Dated: June 11, 2019.

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19 ANDREW P. GORDON
20 UNITED STATES DISTRICT JUDGE
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